

# **PART 505—COSTS OF INCARCERATION FEE**

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AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 31 U.S.C. 3717; Pub. L. 102-395, 106 Stat. 1842 (18 U.S.C. 4001 note); 28 CFR 0.95-0.99.

SOURCE: 59 FR 64781, Dec. 15, 1994, unless otherwise noted.

## **§ 505.1 Purpose and scope.**

This part establishes procedures for the assessment and collection of a fee to cover the cost of incarceration. The provisions of this part apply to any person who is convicted in a United States District Court and committed to the custody of the Attorney General, and who begins service of sentence on or after January 1, 1995. For purposes of this part, revocation of parole or supervised release shall be treated as a separate period of incarceration for which a fee may be imposed.

## **§ 505.2 Fee assessment—annual determination of average cost of incarceration.**

(a) The Attorney General is required to collect and establish a fee to cover the cost of confinement which is equivalent to the average cost of one year of incarceration. See 28 CFR 0.96c.

(1) For the fiscal year 1995, the fee to cover the cost of incarceration shall be \$21,352. This figure represents the average cost to the Bureau of Prisons of confining an inmate for one year.

(2) The fee is calculated by dividing the number representing the obligation encountered in Bureau of Prisons facilities (excluding activation costs) by the number of inmate-days incurred for

preceding fiscal year, and by then multiplying the quotient by 365. See 28 CFR 0.96c.

(b) The Director of the Bureau of Prisons shall review the amount of the fee not less than annually to determine the cost of incarceration. The new figure shall be published as a notice in the FEDERAL REGISTER.

## **§ 505.3 Calculation of assessment by unit staff.**

Bureau of Prisons Unit Team staff shall be responsible for computing the amount of the fee to be paid by each inmate.

(a) Unit Team staff shall rely exclusively on the information contained in the Presentence Investigation Report and findings and orders of the sentencing court in order to determine the extent of an inmate's assets, liabilities and dependents.

(b) The fee shall be assessed in accordance with the following formula: If an inmate's assets are equal to or less than the poverty level, as established by the United States Department of Health and Human Services and published annually in the FEDERAL REGISTER, no fee is to be imposed. If an inmate's assets are above the poverty level, Unit Team staff shall impose a fee equal to the inmate's assets above the poverty level up to the average cost to the Bureau of Prisons of confining an inmate for one year.

## **§ 505.4 Inmates exempted from fee assessment.**

A fee otherwise required by this part may not be collected from an inmate with respect to whom a fine was imposed or waived by a United States District Court pursuant to section 5E1.2 (f) and (i) of the United States Sentencing Guidelines or any successor provisions.

## **§ 505.5 Inmates subject to prorated fee assessment.**

For any inmate committed to the custody of the Attorney General for a period of less than 334 days (including pretrial custody time), the maximum fee to be imposed shall be computed by prorating on a monthly basis the average cost for one year of confinement.

**§ 505.6 Waiver of fee by Warden.**

The Warden may reduce or waive the fee if the person under confinement establishes that:

(a) He or she is not able and, even with the use of a reasonable installment schedule, is not likely to become able to pay all or part of the fee, or

(b) Imposition of a fee would unduly burden the defendant's dependents.

**§ 505.7 Procedures for payment.**

Fees imposed pursuant to this part are due and payable 15 days after notice of the Unit Team actions. Fees shall be included in the Inmate Financial Responsibility Program under the category "other federal government obligations", and shall be paid before other financial obligations included in that same category. Fees not paid within 15 days may result in interest charges.

**§ 505.8 Procedures for appeal.**

An inmate may appeal the Warden's decision not to grant a waiver or the Unit Team's calculation through the Administrative Remedy Procedure (see part 542 of this chapter) and may submit information to demonstrate substantial hardship.

**§ 505.9 Procedures for final disposition.**

Before the inmate completes his or her sentence, Unit Team staff shall review the status of the inmate's fee and any unpaid amount will be referred for collection in accordance with Federal Claims Collection Standards (4 CFR Chapter II).

## PART 511—GENERAL MANAGEMENT POLICY

### Subpart A—[Reserved]

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AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 751, 752, 1791, 1792, 1793, 3050, 3621, 3622, 3624, 4001, 4012, 4042, 4081, 4082 (Repealed as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99, 6.1.

SOURCE: 49 FR 44057, Nov. 1, 1984, unless otherwise noted.

### Subpart A—[Reserved]

### Subpart B—Searching/Detaining of Non-Inmates

**§ 511.10 Purpose and scope.**

(a) In an effort to prevent the introduction of contraband (such prohibited objects as defined in § 511.11(c)) into an institution, Bureau of Prisons staff may subject all persons entering an institution, or during their presence in an institution, to a search of their persons and effects.

(b) Title 18, United States Code, section 3050 authorizes Bureau of Prisons employees (does not include United States Public Health Service employees)—

(1) To make an arrest on or off Bureau of Prisons premises without warrant for violation of the following provisions regardless of where the violation may occur: section 111 (assaulting officers), section 751 (escape), section 752 (assisting escape) of title 18, United States Code, and section 1826(c) (escape) of title 28, United States Code;

(2) To make an arrest on Bureau of Prisons premises or reservation land of a penal, detention, or correctional facility without warrant for violation occurring thereon of the following provisions: section 661 (theft), section 1361 (depredation of property), section 1363 (destruction of property), section 1791 (contraband), section 1792 (mutiny and riot), and section 1793 (trespass) of title 18, United States Code, and

(3) To arrest without warrant for any other offense described in title 18 or 21 of the United States Code, if committed on the premises or reservation of a penal or correctional facility of the Bureau of Prisons if necessary to safeguard security, good order, or government property. Bureau policy provides that such an arrest may be made when staff has probable cause to believe that